

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Federal-State Joint Board on Universal Service</b>	)	<b>CC Docket No. 96-45</b>
	)	
	)	
<b>Petition by N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless for Commission Agreement in Redefining the Service Areas of Rural Telephone Companies in the State of Nebraska Pursuant to 47 C.F.R. Section 54.207(c)</b>	)	
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**Comments of The Rural Telephone Companies**

The Nebraska Rural Independent Companies<sup>1</sup> ("Nebraska Companies"), by counsel, hereby file these Comments in response to the January 20, 2006, Public Notice issued by the Federal Communications Commission (the "Commission" or "FCC").<sup>2</sup> In the Public Notice, the FCC is seeking comment on the Petition of filed by N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless ("Viaero") to redefine the service areas of rural incumbent local exchange carriers solely for the purpose of establishing the geographic area within which Viaero will be designated as an Eligible Telecommunications Carrier ("ETC") for federal universal service purposes.<sup>3</sup> For the reasons stated herein, should the Commission find that the Viaero Petition is consistent with

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<sup>1</sup> Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telco, Inc., Consolidated Telcom, Inc., Consolidated Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K&M Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom Inc., and Three River Telco.

<sup>2</sup> The Wireline Competition Bureau Seeks Comment on Petition to Redefine a Rural Telephone Companies in the State of Nebraska, Public Notice, DA 06-117, released January 20, 2006.

<sup>3</sup> *Petition by N.E. Colorado Cellular, Inc. d/b/a Viaero Wireless for Commission Agreement in Redefining the Service Areas of Rural Telephone Companies in the State of Nebraska Pursuant to 47 C.F.R. §54.207(c)*, CC Docket No. 96-45, filed December 27, 2005 (the "Viaero Petition") at 4.

Section 54.207(c) of the Commission's Rules (*see* 47 C.F.R. §54.207(c)), the Nebraska Companies respectfully requests that the Commission ensure that its conclusions properly reflect the limited nature of the Viaero request and the proper retention of jurisdiction over Viaero by the Nebraska Public Service Commission as an additional ETC within certain rural geographic areas of Nebraska.

The companies that comprise the Nebraska Companies are each incumbent rural telephone companies as that term is defined in the Communications Act of 1934, as amended (the "Act"). Section 214 of the Act, in turn, presumptively requires that each of the Nebraska Companies' "service area" be its "Study Area." Each Nebraska Companies' Study Area would then be used for purposes of its and any other ETC universal service disbursements. *See* 47 U.S.C. §214(e)(5). Thus, action consistent with the Act, Section 54.207 of the FCC's Rules, and the underlying policies announced by the FCC is required to avoid any alteration of this statutory directive.

Consequently, it is not at all surprising that the action Viaero requests the Commission to take is narrow and specific. Viaero requests that "each partially-covered rural ILEC service area should be redefined in a manner that permits Viaero's designation to become effective throughout the portions of the ILEC service area in which it is licensed to provide service." *Viaero Petition* at ii.

Accordingly, as the Commission moves forward with its consideration of the issues raised by the Viaero Petition, the Nebraska Companies respectfully submits that the narrow scope of the request made by Viaero should be reflected in any action taken by the FCC. By doing so, Viaero's conclusion that the Nebraska Companies' obligations will remain unaffected

will be realized,<sup>4</sup> and any confusion as to the scope and intent of any Commission action on the Viaero Petition will be minimized.

Likewise, the Nebraska Companies also respectfully request that the Commission acknowledge the fact that the Nebraska Public Service Commission retains jurisdiction over Viaero in Viaero's role as an ETC. As is the Nebraska Public Service Commission's right (*see Texas Office of Public Utility Council v. FCC*, 183 F.3d 393, 418 (5<sup>th</sup> Cir. 1999)), in its decision granting Viaero ETC status<sup>5</sup>, the Nebraska Public Service Commission imposed certain conditions upon Viaero that it must meet in order to fulfill its ETC obligations.

The public interest, therefore, would be served by the FCC specifically acknowledging the continuing and explicit role that the Nebraska Public Service Commission established for itself in the Order. The Nebraska Public Service Commission's continuing role will help ensure that the proper level of regulatory oversight is maintained over ETCs in the State of Nebraska. The FCC's reflection of the Nebraska Public Service Commission's role also ensures that ETCs are held to their commitments and that the peculiarly local nature of universal service are taken into account and properly considered in any ETC matter. These results, in turn, can best be ensured if action by the FCC specifically reflects the proper oversight reflected in the Order.

Accordingly, for the reasons stated herein, the Nebraska Companies respectfully requests that, as the FCC reviews and takes action on the Viaero Petition, the Commission reflect and specifically acknowledge in its decision: (1) the narrow scope of the request filed by the Viaero; (2) the significant conditions that the Nebraska Public Service Commission properly and

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<sup>4</sup> Viaero Petition at p. 12.

<sup>5</sup> The Order of the Nebraska Public Service Commission is attached to the Viaero Petition as Exhibit D (the "Order").

lawfully established; and (3) the Nebraska Public Service Commission's continuing and proper jurisdiction over the ETC designations. As demonstrated herein, action consistent with these requests will advance the public interest.

DATED: February 6, 2006.

Respectfully submitted,

NEBRASKA RURAL INDEPENDENT

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The Blair Telephone Company,  
Cambridge Telephone Company,  
Clarks Telecommunications Co.,  
Consolidated Telco, Inc.,  
Consolidated Telecom, Inc.,  
Consolidated Telephone Company,  
Eastern Nebraska Telephone Company,  
Great Plains Communications, Inc.,  
Hartington Telecommunications Co., Inc.,  
Hershey Cooperative Telephone Co.,  
K&M Telephone Company, Inc.,  
The Nebraska Central Telephone Company,  
Northeast Nebraska Telephone Company,  
Rock County Telephone Company,  
Stanton Telecom Inc., and  
Three River Telco

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## CERTIFICATE OF SERVICE

I, James A. Overcash, hereby certify that on this 6th day of February 2006, copies of the foregoing **Comments of Nebraska Rural Independent Companies** were sent via e-mail to:

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